

WYOMING DEPARTMENT OF PROBATION AND PAROLE

FEASIBILITY STUDY FOR IMPLEMENTATION OF PROBATION SUPERVISORY FEES



Study Designed and Supervised by the
Wyoming Department of Probation and Parole

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Our researchers and the authors of this study were Dr. Richard Green, Gerald Hoppmann, and John Franken of the University of Wyoming. In addition Mary Byrnes of the Department of Research and Statistics, as well as Charlie DeFond and Sharon Schubarth of Data Services provided invaluable assistance.

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TABLE OF CONTENTS

	Page
Executive Summary	1
Introduction	2-3
Questions Answered by Study	4-13
Table 1..	6-7
Judicial Districts Map	7
Table 1A	8
Table 2	10
Table 3	10
Table 3A	11
Table 4	11
Table 5	12
Departmental Districts Map	13
Table 6	14-15
Table 7	16
Cost Analysis Sheet	17
Benefit Analysis Sheet	18
Bottom Line	18
Conclusion	19-20
Recommendations..	20

EXECUTIVE SUMMARY

Attached is a report on the feasibility and implications of implementing a supervisory fee program within the State's probation and parole system. The report is based upon a study of judicial and probation agent support for such a fee, and upon a sample analysis of closed or inactive offender files.

Technical and financial support for the study and report were provided by the State of Wyoming and by the U.S. Government's National Institute of Corrections. The study was conducted by Gerald Hoppmann and John Franken, graduate students in public administration at the University of Wyoming. Supervision and assistance were provided by Dr. Richard Green, Department of Political Science, University of Wyoming; by Robert Ortega, Steve Lindly and Dan Holthus of the Wyoming Department of Probation and Parole; and by a steering committee composed of officials from judicial, legislative and executive branches of Wyoming state government. The Wyoming research division of the Department of Administration and Fiscal Control assisted with data processing. This report was written by Gerald Hoppmann, John Franken, and Dr. Richard Green.

The report summarizes all survey findings, and concludes the following:

1. That there is moderate support among judges for a supervisory fee. However, the judges also ranked the fee very low in priority relative to other fees.
2. That judges (and the legislature in some cases) are giving greater priority to "substantive" fees such as victims' compensation and restitution, and lower priority to "process" fees- such as prosecution and public defender fees. Supervisory fees are "process" fees.
3. That the criminal justice system is developing a fee saturation problem. Newly proposed fees will probably not result in an overall increase in revenue, but will rather diminish revenues among existing fees.
4. That the legislature will have to establish a higher priority for supervisory fees *if* they are to enhance Probation and Parole department revenues. Without such a change in priority, the fees will not generate significant revenue, and may even result in costs exceeding benefits. Furthermore, changing priorities warrants serious reflection, as such change will promote administrative "process" values over "substantive" values.
5. That supervisory fee revenue should not be substituted for existing sources and levels of department funding.
6. That probation officers demonstrate a low level of support for supervisory fees.
7. That the supervisory fee program should not be implemented if the legislature chooses not to establish the fee at a higher level.
8. That if the legislature does increase its priority, the fee program should only be instituted on an experimental basis, with appropriate sunset legislation, in order to test its stability and revenue enhancing potential over a period of years.

INTRODUCTION

The concept of user fees has gained much attention in the age of budget constraints. Revenue from user fees provides an alternative to traditional legislative appropriations. The enclosed study examines the feasibility of applying the "user fee" concept to the Wyoming Department of Probation and Parole.

The Department of Probation and Parole contracted with Richard Green, Assistant Professor, Department of Political Science, Gerald Hoppmann and John Franken, political science graduate students with the University of Wyoming, for the completion of a feasibility study concerning the implementation of probation fees. Probation fees involve the concept of assessing a client (offender) a monthly fee for supervisory services provided by the Department of Probation and Parole.

The Department contacted the United States Department of Justice, National Institute of Corrections (NIC), for information regarding the formulation of such a study. Robert E. DeComc, Ph.D, co-editor of the American Probation and Parole Association's magazine, *Perspectives*, and Fahy G. Mullaney, author, trainer, and consultant in criminal justice, were hired as consultants by the NIC as a means of helping the Department formulate the research methodology.

The study was conducted as a result of former Wyoming state Senator Thomas Stroock's inquiry into the feasibility of implementing probation supervision fees. His inquiry prompted the enactment of legislation during the 1989 General Session which provided for an appropriation to the Department for the study. However, the state appropriation was not utilized as a result of federal monies granted to the Department of Probation and Parole from the U.S. Department of Justice (NIC).

In an age of budget constraints, the process of assessing user fees has become a viable option for many states. However, to date, a "pre-study" has not been accomplished by any of the states currently assessing supervision fees. Wyoming is the first state which has conducted this type of study.

The Wyoming study addressed both the costs and benefits associated with supervision fees. Costs were computed in terms of administrative time spent on the actual processing of the proposed fees.

The study focused on several areas:

- A. Judicial support
- B. Agent support
- C. Flexibility in Assessment and Collection of Fees
- D. Disbursement of Revenues
- E. Potential Revenue Sources
- F. Cost to Collect

Judicial support is the most critical of all areas, as indicated by the National Council on Crime and Delinquency (NCCD) study, (1985). for the success of the fee program. Therefore, the support of Wyoming judges is considered essential if supervision fees become a reality in Wyoming.

The methodology used for the study included both the use of surveys as well as an indepth records search. The instruments utilized in the study were developed by the Department of Probation and Parole with the assistance of the Wyoming office of Research and Statistics.

To identify judicial support, fifty Wyoming judges were surveyed. Survey questions centered not only on whether the judge supported the concept of fees, but also on the current methods used by the judges when assessing existing economic sanctions.

Probation and Parole agents were also surveyed in order to determine departmental support. These surveys also addressed how much extra time the agents believed they would spent if supervision fees become a reality.

Finally, the Clerks of Court throughout Wyoming were surveyed. The objective of this survey was to determine the impact (timewise), supervision fees would have on court administrators.

The indepth records search involved randomly selecting 323 cases out of a total population of 1600 cases. This **sample** size ensured a 95% confidence level with a 5.3% margin of error. These cases became inactive in 1933; thus **providing** a realistic indication of current departmental caseloads.

The information received from the cases provided a means of determining existing economic sanctions (i.e. victim's compensation, fines, restitution, etc.). The sample also provided a means in which an aggregate collection rate could be ascertained.

QUESTIONS ANSWERED BY THE STUDY

1. Does the Judiciary support the concept of supervisory fees?

Based on the statistics 60% [30 of the 50 judges surveyed] supported the supervision fee concept.

2. Where do supervision fees fall priority-wise for judges?

a. Eighty-two percent (82%) of the judges [41 out of the 50 surveyed] stated that a priority of fee payment was set. (By statute, clerk, etc.)

b. Sixty-six percent (66%) of the judges [33 out of the 50 surveyed] stated they set the priority. (Unless otherwise stipulated by law.)

c. All judges surveyed were asked to prioritize supervision fees. Forty of the fifty indicated their priority for supervision fees. Of that forty, thirty-four (85%) ranked them either 5th (35%) 6th (32.5%), or 7th (17.5%) on a scale of 1 to 7.

Other fees were ranked as follows:

A.	Victims Compensation	88%	44	1st	2nd
B.	Restitution	70%	35	1st	2nd
C.	Fine	18%	9	1st.	2nd
D.	Public Defender's Fees	0%	0	1st	2nd
E.	court costs	24%	12	1st	2nd
F.	Prosecuting Fees	0%	0	1st	2nd

3. Does the judiciary assess or reassess an offender's ability to fulfill court ordered financial obligations?

Eighty-eight percent (88%) [44 of the 50 judges surveyed] stated they use a formal or informal assessment of the offender's ability to pay.

Fifty-eight percent (58%) [29 of the 50 judges surveyed] stated they they reassess the offender's ability to pay if their financial status changes.

Based upon the high percentage of judges who prioritize the supervisory fee assessments 5th, 6th. or 7th, it can be assumed that the legislature will have to play a role in implementing statutes for prioritization and collection of supervision fees, if these fees are to serve as a substantial financial source.

Another factor which would require legislative prioritization is the high percentage of judges who assess and reassess the offender's ability to pay. If they find that a client is receiving less income, etc., they may prioritize the supervisory fee assessment lower in importance than other economic sanctions.

The above factors will lead to undesirable outcomes in budgetary constraints for the Department or General Fund, if the Legislature does not prioritize these by statute.

We have concluded there is judicial consensus regarding the amount of money an offender placed on probation can reasonably pay. As a result, the total amount of money assessed would probably remain unchanged even with the addition of a new fee. Other fee amounts would simply be lowered or eliminated, leaving the total amount unchanged. If the goal is to generate extra revenue for the State General Fund and/or the Department of Probation and Parole, knowing that other discretionary economic sanctions would be lessened, the redistribution would be appropriate.

4. Is there a correlation between judicial support and judicial district? (Substantiates the need for legislative prioritization)

Upon review of the state's nine judicial districts, it was discovered that judicial support within the districts **ranged** from a low of 43% (3rd District), to a high of 86% (9th District). [See Table 1 and Map]

5. Is there a correlation between judicial support and length of service?

The **judges** who were appointed before 1980 (6 judges) had a 33% support rate for the concept of supervision fees while those judges appointed after 1986 (7 judges) had an 86% support rate. Based on this information, the more senior judges have less support for supervision fees than those who have been recently appointed. [See Table 1A]

6. **Is** there a correlation between current collection rate and judicial support? (Substantiates the need for legislative prioritization)

From those judges surveyed, the 60% in favor of supervision fees maintained a mean collection rate of 78% while the 40% opposed maintained a mean collection rate of 66%.¹

7. Is there a correlation between jurisdiction and judicial support?

When examining judicial support for fees by jurisdiction, a wide disparity is apparent. For example, district and county jurisdictions maintained a 50-55% support, while the justice courts strongly supported the concept with a 79% affirmation. However, it is important to note that the justice courts only heard 5% of the total sample. [See Table 2]

8. Is there a correlation between current collection rate and judicial district?

After breaking the state into the nine judicial districts, it was discovered the collection rate ranged from a low of 31% (2nd District), to a high of 97% (8th District), with an overall collection rate of 61.21%. [See Tables 3 and 3A]

9. Is there a correlation between current collection rate and jurisdiction?

When examining collection rate by court jurisdiction, it was discovered that the collection rate ranged from a low of 60% (district court), to a high of 69% (justice court). Again, it should be noted the justice courts heard only 5% of the sample. [See Table 4]

10. Is there a correlation between current collection rate and departmental district? (Dept. of Probation/Parole)

When examining the breakdown of departmental districts, it was discovered the collection rate ranged from a low of 41% (6th departmental district), to a high of 74% (5th departmental district). [See Table 5 and Map]

11. Do Probation and Parole Agents support the concept of supervision fees?

Of the 54 probation and parole agents surveyed 64.8% [35 of the 54 surveyed] did not support the concept of supervision fees. Thirty-five percent [19 of the 54 surveyed] supported said concept. (*Continued after Table 1A on page 8*)

¹ These percentages reflect only those judges surveyed: therefore the percentage rates cited are somewhat higher **than the** sample average.

TABLE 1

JUDICIARY SUPPORT
(Judicial District)

	JUDGE #	Y/N	# CASES	COLLECTION RATE
Dist # 1				
	31D	Y	17	51%
50%	41D	Y	1	100%
SUPPORT	43C	N	0	N/A
	44C	N	1	N/A
Dist # 2				
	24D	N	13	15%
	33D	Y	6	48%
50%	35C	N	6	60%
SUPPORT	39C	N	7	43%
	45C	Y	1	100%
	46C	Y	1	100%
Dist # 3				
	05D	N	8	97%
	23D	N	7	22%
	55D	Y	0	N/A
43%	38C	N	2	100%
SUPPORT	47C	N	7	100%
	48C	Y	5	33%
	49C	N	2	100%
Dist # 4				
	30D	N	6	21%
66%	34C	Y	2	100%
SUPPORT	67JP	Y	1	0
Dist # 5				
	26D	N	11	74%
	42D	Y	3	100%
	59JP	Y	0	N/A
75%	60JP	Y	0	N/A
SUPPORT	61JP	Y	0	N/A
	62JP	N	1	100%
	63JP	Y	0	N/A
	64JP	Y	0	N/A
Dist # 6				
	11D	N	15	76%
	29D	Y	9	95%
60%	50C	Y	0	N/A
SUPPORT	68JP	N	0	N/A
	69JP	Y	5	83%
Dist # 7				
	12D	N	33	38%
75%	28D	Y	13	86%
SUPPORT	36C	Y	19	97%
	37C	Y	28	80%

TABLE 1 Cont.

Dist # 8

	15D	Y	8	95%
	27D	N	4	100%
50%	51C	N	1	100%
SUPPORT	52C	Y	0	N/A
	58JP	N	0	N/A
	70JP	Y	0	N/A

Dist # 9

	25D	N	9	18%
	56D	Y	0	N/A
86%	53C	Y	0	N/A
SUPPORT	54C	Y	0	N/A
	57JP	Y	0	N/A
	65JP	Y	0	N/A
	66JP	Y	0	N/A

Judicial Districts

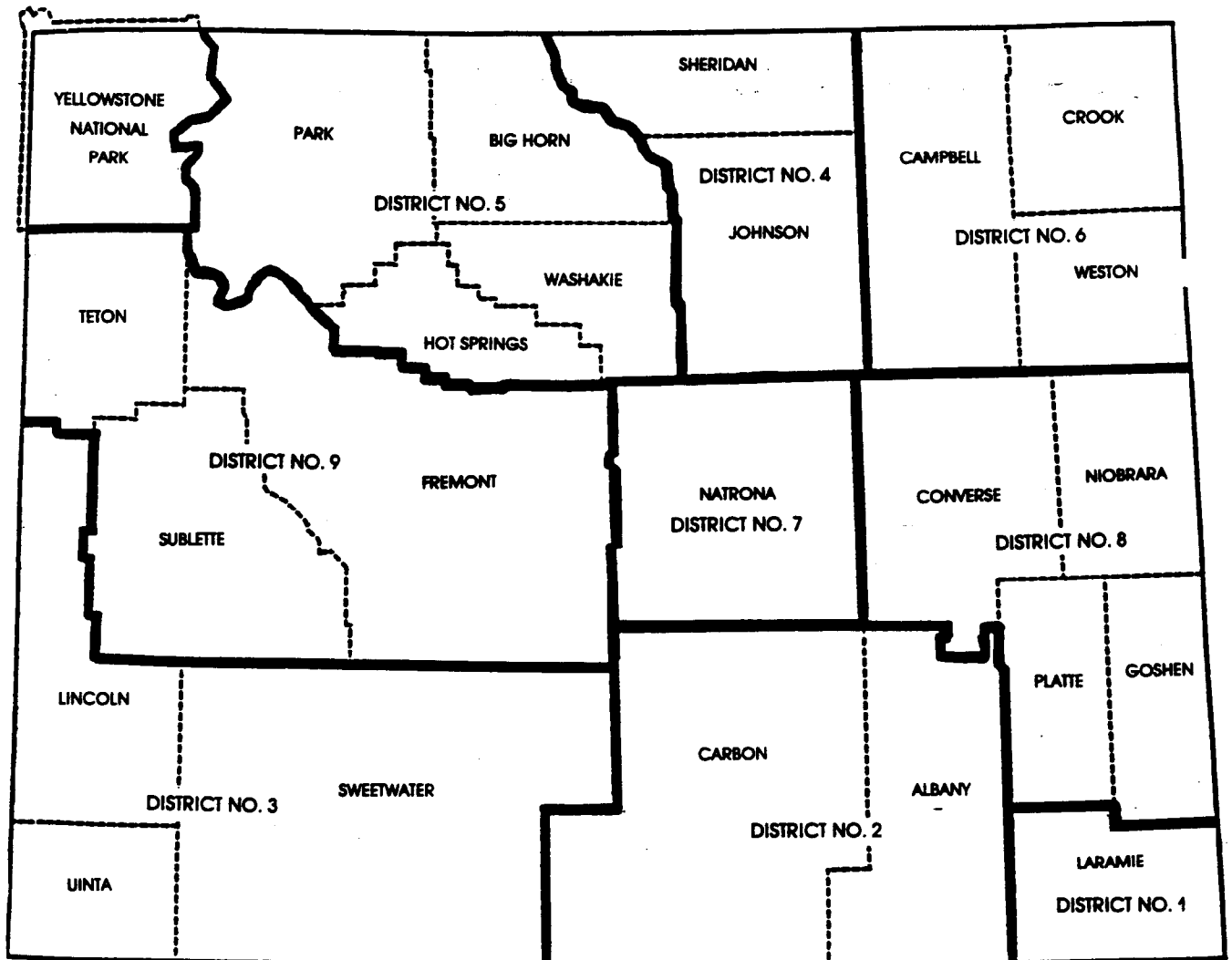


TABLE 1A
JUDICIARY SUPPORT*
(Length of Service vs. Support)

	JUDGE #	Y/N	APPT. DATE
APPOINTED 1975-80	15	Y	JUL 80
	36	Y	JAN 79
	11	N	AUG 80
33 % SUPPORT	43	N	JAN 79
	44	N	JAN 79
	12	N	AUG 78
APPOINTED 1981-85	29	Y	FEB 85
	52	Y	JUL 84
	48	Y	JUL 84
	28	Y	NOV 84
	34	Y	JAN 83
	53	Y	JAN 83
	45	Y	JAN 83
	46	Y	JAN 83
	37	Y	JAN 82
	54	Y	JUN 82
	30	N	JAN 85
	39	N	JUL 84
48% SUPPORT	35	N	JUL 84
	27	N	JUN 84
	26	N	JUL 83
	25	N	JUL 83
	24	N	MAR 82
	51	N	MAR 81
	38	N	MAR 81
	47	N	MAR 81
	23	N	MAR 81
	50	Y	NOV 88
	55	Y	SEP 88
	42	Y	JUL 88
86% SUPPORT	33	Y	MAR 88
	41	Y	JUL 87
	31	Y	FEB 86
	49	N	MAY 88

* This table includes district and county judges only.

(Question 11 continued)

Sixty-one percent (61%) [33 of the 54 surveyed] anticipated spending more time in the enforcement of all economic sanctions. Thirty-nine percent or 21 of the 54 surveyed, did not anticipate spending more time in the enforcement of said sanctions.

Of the 61.1% of the agents who reported spending extra time on the enforcement sanctions, 74% of them anticipated spending from 10 to 60 extra minutes per case, per month enforcing the fee.

When asked if the proposed supervision fee could be earmarked to enhance department programs, 72.2% or 39 of the 54 agents surveyed supported the concept, with 27.8% or 15 of the 54 dissenting.

Overall, 74% [40 of the 54 agents surveyed] cited training programs, an increase in agency personnel, and increased wages as the most desirable areas to enhance within the department if extra revenue was generated from supervision fees.

12. How does the percentage of collection change depending on supervision level? (Clients' risks and needs are used to assess supervision level)

Of the 323 cases sampled, 1.9% or 6 of the cases had no level of supervision. This 1.9% had an individual mean average monthly income of \$467.00, a mean total assessment of \$2,496.67, a mean total collection of \$106.67, and a mean total collection rate of 4.3%.

Thirty-one percent (31%) or 101 cases in the sample had a minimum level of supervision, a mean average monthly income of \$997.00, a mean total assessment rate of \$1,112.90, a mean total collection of \$889.22, and a mean total collection rate of 79%.

Thirty-one percent (31%) or 100 cases in the sample had a medium level of supervision, a mean average monthly income of \$618.00, a mean total assessment rate of \$592.38, a mean total collection of \$437.61, and a mean total collection rate of 74%.

Thirty-six percent (36%) or 116 cases in the sample had a maximum level of supervision, an average **mean** monthly income of \$441.00, a mean total assessment rate of \$720.80, a mean total collection of \$274.21. and a mean total collection rate of 38%.

Based on the statistics, the collection rate increases as the level of supervision decreases,

13. How does the percentage of collection change depending on average monthly income?

The average monthly income for the sample is \$684.00.

Based on the statistics, the percentage of collection rate increases 36% from the lowest mean monthly income of \$441.00 to the middle mean average monthly income of \$618.00. The collection rate increases 5% from the middle mean average monthly income of \$618.00 to the highest mean average monthly income of \$997.00. Overall, there is a 41% increase in collection rate from the lowest average monthly income rate of \$441.00 to the highest average monthly income rate of \$997.00.

14. How does the percentage of collection change depending on amount assessed?

With the exception of the unclassified offenders, the collection rate seems to be higher for the higher amounts assessed. The average monthly income and the supervision level are better indicators of collection rates than total amounts assessed.

A variable which helps to predict the collection rate is the final outcome of probation. If a client is discharged from probation, meeting all court ordered obligations, the collection rate is 90%. There is a 78% collection rate for those clients discharged with a relief of responsibility, a 43% collection rate for those clients who have bench warrants for their arrests (after absconding from probation), a 36% collection rate for those clients administratively discharged, and a 24% collection rate for those clients if probation has been revoked.

15. Not counting possible sanctions, what is the projected cost of implementation of supervision fees to the Department of Probation and Parole, and the Clerks of Court?

PROBATION/PAROLE: 15 minutes per case per month. [Figured with a modal central measure of tendency]

CLERKS OF COURT: 79% or 35 out of the 44 clerks surveyed, said they would spend from 0 to 30 extra minutes per case, per month collecting and distributing the proposed supervision fees. [See cost analysis sheet for monetary figures.]

TABLE 2

**JURISDICTION
(Judicial Support)**

	JUDGES	CASES	% CASES	# SUPPORT	% SUPPORT
DISTRICT	18	186	57.6%	9	50%
COUNTY	18	121	37.5%	10	55.5%
J.P.	14	16	4.9%	11	78.5%

TABLE 3

**COLLECTION RATE*
(Judicial District)**

	# OF CASES	% OF CASES	TOTAL ASSESSED	TOTAL COLLECTED	RATE
DIST. #1	32	9.9%	\$17,070.	\$8,440.	49.44%
DIST. #2	36	11.0%	\$39,048.	\$12,205.	31.25%
DIST. #3	36	11.0%	\$34,385.	\$20,211.	58.77%
DIST. #4	9	2.8%	\$2,775.	\$895.	32.25%
DIST. #5	18	5.6%	\$13,009.	\$8,121.	62.42%
DIST. #6	68	21.0%	\$107,751.	\$81,223.	75.38%
DIST. #7	94	29.1%	\$38,061.	\$24,065.	63.23%
DIST. #8	14	4.3%	\$6,542.	\$6,332.	96.78%
DIST. #9**	16	5.0%	\$12,603.	\$4,528.	35.92%

* The number of cases in this table may not correspond with the number of cases in Table 1 because not all judges who were selected from the sample were surveyed.

** Sublette County was not represented in the sample; therefore District 9 contains only two counties.

16. What is the current economic sanction profile, by offense?

The following offenses comprise a majority of the representative sample of closed probation cases during 1988, along with their mean economic sanctions and collection rates.

Approximately 60% of the sampled cases involved crimes such as drug offenses, burglary, D.U.I.'s (possibly associated with traffic offenses), larceny, forgeries, and assault/batteries. The mean economic sanction for these offenses is \$750.00. The mean collection is \$416.37, with a mean collection rate of 56%.

The collection rate for economic sanctions imposed on those clients who commit the most common crimes in the state of Wyoming may fall below a minimally accepted level of collection. [See Tables 6 and 7]

TABLE 3A

TOTAL ASSESSED AND COLLECTION RATE BY COUNTY

COUNTY	ASSESSED	COLLECTED	RATE
ALBANY	\$20,102.	\$7,383.	36.73%
BIG HORN	\$943.	\$621.	65.85%
CAMPBELL	\$90,669.	\$70,924.	78.22%
CARBON	\$18,946.	\$4,822.	25.45%
CONVERSE	\$1,120.	\$1,070.	95.54%
CROOK	\$3,645.	\$3,011.	82.61%
FREMONT	\$7,833.	\$1,426.	18.21%
GOSHEN	\$3,400.	\$3,400.	100.00%
HOT SPRINGS	\$2,360.	\$1,360.	57.63%
JOHNSON	\$985.	\$245.	24.87%
LARAMIE	\$17,070.	\$8,440.	49.44%
LINCOLN	\$8,464.	\$3,800.	44.90%
NATRONA	\$38,061.	\$24,065.	63.23%
NIOBRARA	\$1,715.	\$1,555.	90.67%
PARK	\$9,656.	\$6,090.	63.07%
PLATTE	\$307.	\$307.	100.00%
SHERIDAN	\$1,790.	\$650.	36.31%
SWEETWATER	\$15,416.	\$15,141.	98.22%
TETON	\$4,770.	\$3,102.	65.03%
UINTA	\$10,505.	\$1,270.	12.09%
WASHAKIE	\$50.	\$50.	100.00%
WESTON	\$13,437.	\$7,288.	54.24%
TOTAL	\$271,244.	\$166,020.	61.21%

TABLE 4

COLLECTION RATE

(Jurisdiction)

	TOTAL AMOUNT ASSESSED	TOTAL AMOUNT COLLECTED	RATE
DISTRICT	\$207,590.	\$123,748.	59.61%
COUNTY	\$49,032.	\$32,143.	65.56%
J.P.	\$14,622.	\$10,129.	69.27%
TOTAL	\$271,244.	\$166,020.	61.21%

TABLE 5**COLLECTION RATE
(Departmental District)**

COUNTY COLLECTION RATE		TOTAL COLLECTION RATE
DEPARTMENTAL DISTRICT 1		
LARAMIE	49%	49%
DEPARTMENTAL DISTRICT 2		
LINCOLN	45%	60%
SUBLETTE	N/A	
SWEETWATER	98%	
TETON	65%	
UINTA	12%	
DEPARTMENTAL DISTRICT 3		
BIG HORN	66%	46%
FREMONT	18%	
HOT SPRINGS	58%	
PARK	63%	
WASHAKIE	100%	
DEPARTMENTAL DISTRICT 4		
NATRONA	63%	63%
DEPARTMENTAL DISTRICT 5		
CAMPBELL	78%	74%
CROOK	83%	
JOHNSON	25%	
SHERIDAN	36%	
WESTON	54%	
DEPARTMENTAL DISTRICT 6		
ALBANY	37%	41%
CARBON	25%	
CONVERSE	96%	
GOSHEN	100%	
NIOBRARA	91%	
PLATTE	100%	

17. What percentage of clients are being extended solely for non-payment of fees? (Generally, extensions are granted to clients to allow them more time to comply with financial obligations.)

Nineteen (19) clients or 6.0% of the cases were extended for non-payment of fees.

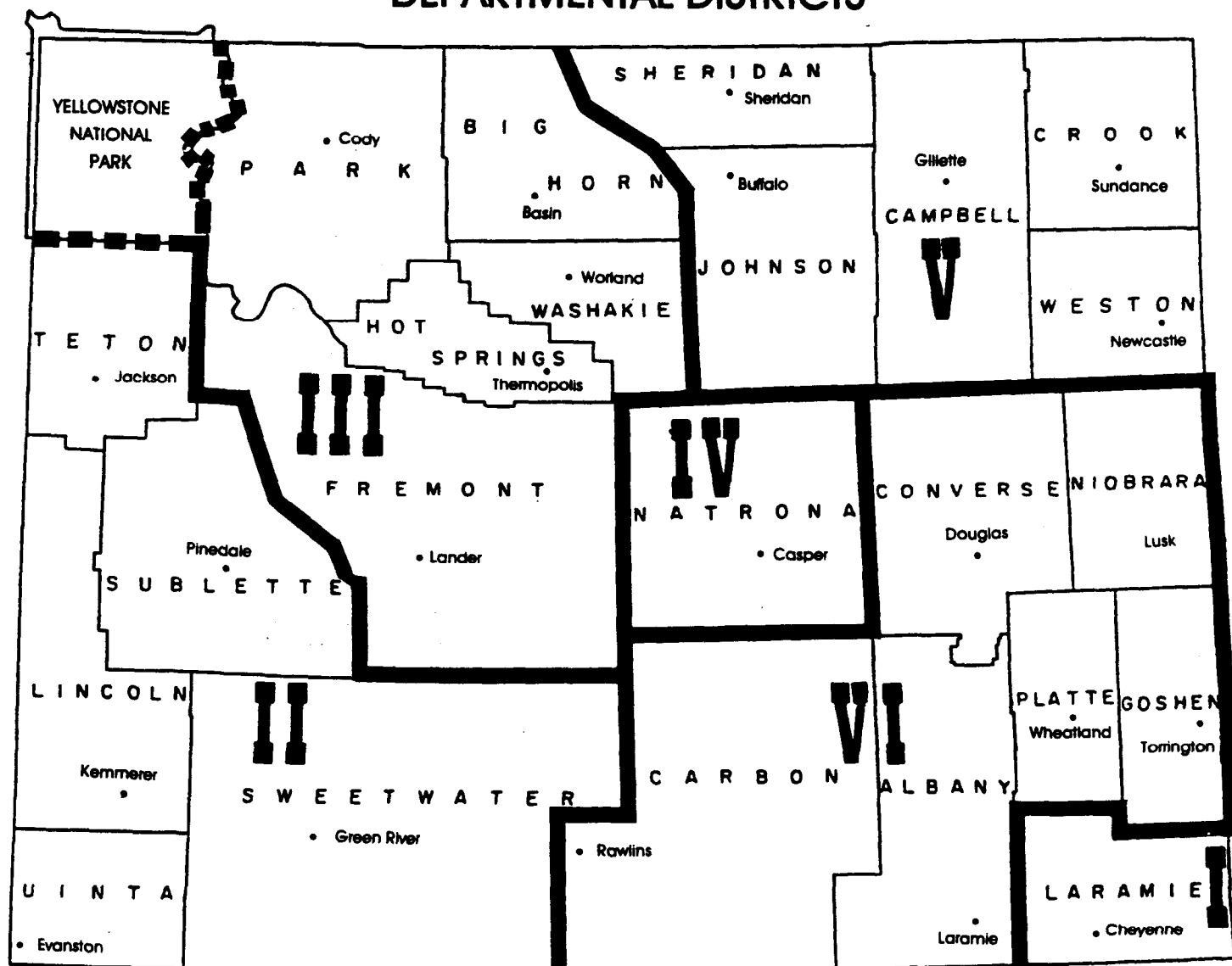
18. What percentage of clients are being revoked for non-payment of fees?

One (1) client or .3% of the cases were revoked for non-payment of fees.

19. Is there a correlation between non-payment of fees and legal sanctions?

The correlation between sole non-payment of fees and legal sanctions is statistically insignificant. As shown from the above, only a minimum percentage of clients are legally sanctioned for non-payment. It can be assumed that agents take care of non-payment, at their discretion.

DEPARTMENTAL DISTRICTS



20. What is the current cost of legal sanctions for non-payment of fees?

Based on the sample which is 20% of the annual caseload, the cost to the State as a result of the extensions and the one revocation for non-payment of fees, is \$17,015. By projecting this cost through the rest of the year and the remaining percentage of the caseload, the State could stand to lose up to \$85,075.00 in extra work time and institutional services, as a result of extensions and revocations. [See cost/benefit sheets]

21. What should the sanctions be for non-payment of fees?

The State must be careful not to cancel out the benefits by added costs to the State.

22. What is the total annual cost of collection per person?

\$116 annually. [See cost/benefit sheets]*

*This figure was derived by dividing the total cost of fee implementation (\$185,875.1, by the number of clients annually. (1600)

TABLE 6			
VALUE LABEL	VALUE	FREQUENCY	PERCENT
COMPOUNDING FELONY	421	2	.6%
HOMICIDE	939	4	1.2%
	942		
	950		
	960		
SEXUAL ASSAULT	1120	12	3.6%
	1129		
	1130		
	1140		
	1150		
ROBBERY	1220	5	1.5%
	1229		
	1230		
ASSAULT/BATTERY	1320	18	5.5%
	1322		
	1330		
	1339		
RECKLESS ENDANGERING	1340	11	3.4%
ASSAULTING AN OFFICER	1369	1	.3%
ARSON	2040	1	.3%
BURGLARY	2210	40	12.3%
	2219		
	2230		
	2239		
LARCENY	2320	25	7.7%
	2324		
	2325		
	2329		
SHOPLIFTING	2330	2	.6%
THEFT OF SERVICES	2340	4	1.2%
	2350		
	2360		
VEHICLE THEFT	2404	5	1.5%
FORGERY	2520	19	5.9%
	2589		
FRAUD	2605	14	4.3%
	2606		
	2650		
	2654		
	2699		
EMBEZZLEMENT	2799	1	.3%
RECEIVING STOLEN PROPERTY	2820	7	2.2%
	2824		
DESTRUCTION OF PROPERTY	2910	7	2.2%

TABLE 6 Continued

DRUG OFFENSE	3525	53	16.4%
	3533		
	3562		
	3564		
	3573		
	3593		
	3594		
	3599		
INCEST	3620	2	.6%
CHILD ENDANGERING	3640	3	.9%
IMMORAL ACTS WITH CHILD	3670	7	2.2%
CONTRIBUTING TO THE DELINQUENCY OF A MINOR	3805	1	.3%
CHILD ABUSE	3810	4	1.2%
LIQUOR (FREE TEXT)	4199	1	.3%
OBSTRUCTING POLICE	4820	8	2.5%
	4899		
FELON IN POSSESSION OF FIREARMS	5230	1	.3%
DISTURBING THE PEACE	5309	5	1.5%
	5312		
	5399		
D.U.I.	5404	36	11.1%
TRAFFIC OFFENSE (FREE TEXT)	5499	22	6.8%
CONSERVATION OFFENSE	6220	2	.6%
	6299		

TABLE 7			
VALUE LABEL	MEAN ASSESSED	COLLECTED	% RATE
COMPOUNDING FELONY	\$613.50	\$613.50	100%
HOMICIDE	\$1,828.00	\$1,495.00	82%
SEXUAL ASSAULT	\$444.50	\$183.00	41%
ROBBERY	\$705.00	0	0%
ASSAULT/BATTERY	\$877.21	\$127.49	15%
RECKLESS ENDANGERING	\$105.91	\$105.91	100%
ASSAULTING AN OFFICER	\$87.00	\$87.00	100%
ARSON	0	0	0%
BURGLARY	\$412.25	\$287.75	70%
LARCENY	\$1,146.20	\$188.90	16%
SHOPLIFTING	\$55.00	\$30.00	55%
THEFT OF SERVICES	\$479.50	\$438.50	91%
VEHICLE THEFT	\$2,085.20	\$293.00	14%
FORGERY	\$1,152.10	\$983.20	85%
FRAUD	\$924.00	\$502.78	54%
EMBEZZLEMENT	\$2,398.00	\$2,398.00	100%
RECEIVING STOLEN PROPERTY	\$899.00	\$501.00	56%
DESTRUCTION OF PROPERTY	\$3,613.57	\$975.57	27%
DRUG OFFENSE	\$920.00	\$815.00	89%
INCEST	\$112.50	\$112.50	100%
CHILD ENDANGERING	\$108.33	\$108.33	100%
IMMORAL ACTS WITH CHILD	\$168.86	\$168.86	100%
CONTRIBUTING TO THE DELINQUENCY OF A MINOR	\$70.00	\$70.00	100%
CHILD ABUSE	\$285.00	\$285.00	100%
LIQUOR (FREE TEXT)	\$570.00	\$570.00	100%
OBSTRUCTING POLICE	\$452.15	\$446.40	99%
FELON IN POSSESSION OF FIREARMS	\$50.00	\$50.00	100%
DISTURBING THE PEACE	\$258.00	\$241.10	93%
D.U.I.	\$399.72	\$336.44	84%
TRAFFIC OFFENSE (FREE TEXT)	\$343.82	\$175.82	51%
CONSERVATION OFFENSE	\$3,592.00	0	0%

COST ANALYSIS SHEET

PROBATION AND PAROLE DEPARTMENT'S COST:

Probation and Parole Agent's average salary is \$11.00/hr.

An agent will spend approximately 15 minutes or 1/4 of an hour per case/per month. This extra time equals \$2.75 per case/per month.

The average number of adult clients on probation at any given time equals 1600. Therefore:

Probation and Parole's Cost Without Sanctions:

1600 cases x \$275/month = \$4,400 per month, or an annual amount of: \$4,400 x 12 months = \$52,800 per year.

Probation and Parole's Cost With Sanctions: (extensions and revocations for non-payment of fees).

In the sample, 19 clients had their probation extended for failure to comply with court-ordered financial obligations. One client had his probation revoked for failure to comply. Therefore, in the total population (1600 cases) it is likely that about 95 people will be extended and five revoked for failure to comply. Based on these statistics the following costs would be incurred.

The average cost to extend a client is \$185 per year. (This figure is based on the 1988 Time Study conducted by Brian Bemus, an independent criminal justice consultant, for the Department of Probation and Parole). Therefore, \$185 per client per year x 95 cases extended per year = \$17,575.

The cost to incarcerate a client (as a result of being revoked) in the Wyoming State Penitentiary is \$13,500. Therefore:

\$13,500 per client per year x 5 revocations per year = \$67,500.

The Department of Probation and Parole and the State would incur the following total cost per year:

\$52,800 + \$17,575 + \$67,500 = \$137,875.

CLERK OF COURTS' COST:

The average salary for the clerks of court is approximately \$10 per hour. The clerks estimated they would spend an extra 15 minutes (\$2.50) per case per month. Therefore:

1600 cases x \$2.50 per case per month = \$4,000 per month, or \$4,000 per month x 12 months = \$48,060 per year.

The clerks of court would incur a cost of \$48,000 per year.

TOTAL COST: \$137,875 + \$48,000 = \$185,875 per year.

BENEFIT ANALYSIS SHEET

The average probation supervision fee nationally is \$15 per month/per client. Using this average the following revenue projection can be computed.

1600 cases x \$15 per month = \$24,000 monthly, or
\$24,000 x 12 months = \$288,000 annual gross revenue.

With the 61% collection rate the state currently has regarding existing fees, the annual amount generated by supervision fees would be reduced to \$175,680.

BOTTOM LINE

Benefit cost
\$175,680 - \$185,894 = - \$10,195 annually

- This is only a statistical scenario. Significant variations could occur in any given future year, depending on a host of circumstances. However, this scenario can be used as a *rough* indicator of costs and benefits.
- The time costs associated with probation agent and clerk implementation will not necessarily be reflected in current-year budget estimates. Budgets cannot reflect all aspects of cost effectiveness.

CONCLUSIONS

JUDICIAL SUPPORT

The study indicates that approximately 60% of the judges support the idea of supervisory fees. However, it should be noted that the highest support came from local justices - a group that deals with very few cases relevant to this study. The support among county and district judges, the group which deals with most of the cases relevant to this study, was therefore a little lower than the overall average (see Table 2).

It should also be noted that 85% of the judges ranked supervisory fees very low in priority relative to other fees. Judges appear to make a distinction between “substantive” fees and “process” fees. That is, they tend to attach a higher priority to those fees which are directly related to substantive values such as justice, fairness, compensation, etc., and a lower priority to fees that pay for administrative (process) costs. For example, victims compensation and restitution fees are clearly linked to considerations of justice and redress, and consistently ranked highest in priority, while prosecution and public defender fees consistently ranked low. Supervisory fees clearly fall under the category of “process” fees. Without some kind of legislative action to re-prioritize these fees, *we expect judges will continue to attach low priority to supervisory fees*. Thus, despite moderate support for supervisory fees, judges will most likely not apply them in many cases.

Furthermore, in cases where a reassessment of an offender’s ability to pay is necessary, we expect supervisory fees will be among the first to be excused.

Fee Saturation Problem: During the course of this study it became apparent that a fee saturation problem is developing in the Wyoming criminal justice system. There are currently six different fees assessed in the system, the supervisory fee would become the seventh. Our statistics indicate rather low incomes (on average) in the offender population, and those incomes are probably also quite unstable (due to seasonal nature, poor working conditions, low benefits, etc.). The combination of low ability to pay and increasing fees could result in even lower collection rates, more reassessments by judges, increased sanctions for failure to pay, and possibly increasing discouragement and recidivism among offenders. More sanctions and recidivism would result in a drastic increase in costs beyond the fee’s expected benefits.

It is also apparent that judges are sensitive to these potential problems, and probably will not increase fees for offenders in order to accommodate the addition of new fees. There is every indication that they will simply assess the same amounts as before from offenders, and redistribute the collections among the fee categories according to legislative and judicial priorities. Thus, as more fees are implemented, each revenue beneficiary will get less, unless their fee amount is fixed by statute, and mandatorily applied to all offenders.

PROBATION AGENT SUPPORT

Support among probation agents for the supervisory fee is low (35%). There is a definite belief that implementation of the fees will take more of their time away from counselling and surveillance. If this is true, then a significant cost in overall probation and parole resources is involved, and must be factored against revenue generated by the fee. The rough cost/benefit analysis included in this report estimated the extra time required to implement the supervisory fee at 15 minutes per case per month. As indicated in the analysis, this results in substantial costs.

It should be noted that probation agent support increases if collected supervisory fees are earmarked for department use, above and beyond regular appropriations. However, this assumes fee collections will be sufficient for meaningful applications in the department (e.g., for training, additional pay, new positions, etc.). Our cost/benefit scenario indicates that fee collections will not be significant unless they are enhanced through legislation.

FEE PRIORITIES

All coordinating institutions should give serious thought to any change in fee priorities. The existing priorities of the judges and legislature should be accorded much respect, especially if they agree with the “substantive/process” fee distinction mentioned above. Should a “process” fee be given more priority than a “substantive” fee? This question is important because it will take a substantial change in fee priorities in order to make the supervisory fee a revenue-enhancer for the Department of Probation and Parole.

The national standard for supervision fees is \$15 per month. Our cost/benefit analysis uses that rate in calculation, and shows that there will most likely be no significant revenue enhancement. Thus, a much higher fee will have to be considered, and will likely rival the amounts assessed for higher-priority “substantive” fees. Given the rather fixed amounts that the average offender can pay, an increased supervisory fee will detract significantly from other fee amounts.

ALLOCATION OF FEE REVENUE

Should supervisory fees become a reality, there are a number of concerns related to their allocation in the State. First, there is simply not enough information available to establish the degree of stability in the amounts collected each year. There may be substantial variability. *Accordingly, the fee should in no way be used as a substitute for existing departmental revenue.*

Second, the fees could be disbursed to the State’s general fund, but there is obviously no guarantee that the Department of Probation and Parole will benefit. This could result in more work for the department, and no extra benefit.

Third, the fees could be earmarked as supplementary funds to the Department of Probation and Parole. This could have some beneficial impact in terms of extra training, pay, or new positions. However, it could also be offset if the legislature should decide to reduce supplemental appropriations requested by the department in subsequent years.

Fourth, the fees could be disbursed in part to the general fund, and in part as supplemental funds to the Department of Probation and Parole. This results in decreased benefit to the department, but may serve other legislative priorities as well.

RECOMMENDATIONS

Based on the study’s findings, we recommend the following:

1. If existing priorities among fees are not adjusted by the legislature, then the supervisory fee should probably not be implemented.
2. If priorities are adjusted by the legislature in favor of supervisory fees (earmarked for department use as a supplement), then it may be advisable to experiment with the fee for a fixed term of years, perhaps three-to-five years. This would require a sunset provision in the enabling legislation. The experimental period would provide some indication of the fee’s stability and revenue potential.